


Restraint and Seclusion

	Louisiana Department of Health (LDH)	
	Policy Number	75.2
	Content	Policy and procedures for use of restraint and seclusion in LDH facilities/programs
	Effective Date	July 15, 2014
	Inquiries to	ADULT PROTECTIVE SERVICES Office of Aging and Adult Services P. O. Box 3528, Bin 11 Baton Rouge, LA 70821 PHONE: (225) 342-9062 FAX: (225) 342-9069

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/overrule/supersede the conflicting section within the Program Office or facility policy.

I. POLICY STATEMENT

- A. It is the policy of the Louisiana Department of Health (LDH) that every effort shall be made by LDH facilities, programs, and affiliates to minimize the use of restraints and seclusion and to use less restrictive alternatives whenever possible. When the use of restraints or seclusion is necessary in emergency situations, the use shall be terminated as soon as the emergency need has ended.
- B. When the use of restraints or seclusion are deemed necessary, such use shall be in accordance with this policy and with all applicable state and federal laws, rules, and regulations. Each program office, facility, program, and affiliate shall adopt specific policies and procedures governing the use of restraints and seclusion that are consistent with this policy and with applicable state and federal laws, rules, and regulations.
- C. Restraint or seclusion shall not be used as a means of coercion, discipline, punishment, retaliation, for the convenience of staff, in lieu of appropriate treatment or in any other manner not consistent with this policy and applicable laws, rules, and regulations.

- D. All staff involved in direct client care shall be trained in a standardized crisis intervention system such as Crisis Prevention and Supportive Intervention (CPSI), as approved by LDH. Being trained in CPSI does not qualify an employee to administer chemical or mechanical restraints. No staff member shall be involved in implementing restraints or seclusion unless that individual has been trained and has demonstrated competency in the use of the specific type of restraint applied.
- E. Any use of restraint or seclusion not in compliance with this policy and/or with applicable laws, rules and regulations may be considered abuse and shall be reported in accordance with the LDH Policy #76 – Abuse and Neglect.
- F. Facilities or programs providing direct client services which do not use restraints or seclusion shall adopt policies to that effect.

II. PURPOSE

This policy provides guidelines governing the use of restraints and seclusion in facilities and programs operated by LDH.

III. APPLICABILITY

This policy is applicable to all employees of LDH and its affiliates and to all persons receiving services from LDH and its affiliates.

IV. EFFECTIVE DATE

The effective date of this policy is July 15, 2014.

V. GENERAL DEFINITIONS

- A. Affiliate - Any organization or entity providing direct services to clients through interagency agreement or contract with LDH or a LDH facility/program.
- B. Client - Any person receiving services from LDH or an affiliate of LDH.
- C. Facility/Program - any organizational unit operated by LDH or its affiliates providing services to clients. Examples include but are not limited to hospitals, clinics, Supports and Services Centers, health units, service components of program offices and bureaus.
- D. Interagency Agreement - A written document of agreement between two or more organizations which outlines their working relationships.

E. Staff - Employees of LDH facilities/programs and affiliated agencies.

F. Seclusion

1. The involuntary confinement of an individual in a room alone, for any period of time, from which the individual is physically prevented from leaving. Seclusion does not include involuntary confinement for legally mandated but nonclinical purposes, such as the confinement of a person who is facing serious criminal charges or who is serving a criminal sentence.

2. For hospitals and rehabilitation and psychiatric distinct part units in critical access hospitals that elect The Joint Commission deemed status option: The involuntary confinement of a patient alone in a room or area from which the patient is physically prevented from leaving. Seclusion may be used only for the management of violent or self-destructive behavior. (42 CFR 482.13(e)(1)(ii))

G. Restraint

1. Any method (chemical or physical) of restricting an individual's freedom of movement, including seclusion, physical activity, or normal access to his or her body that (1) is not a usual and customary part of a medical diagnostic or treatment procedure to which the individual or his or her legal representative has consented, (2) is not indicated to treat the individual's medical condition or symptoms, or (3) does not promote the individual's independent functioning.

2. For hospitals and rehabilitation and psychiatric distinct part units in critical access hospitals that elect The Joint Commission deemed status option: 42 CFR 482.13(e)(1) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely; or 42 CFR 482.13(e)(1)(i)(B) (A restraint is—) A drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.

3. 42 CFR 482.13(e)(1)(i)(c) - A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling

out of bed, or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort).

- H. Treatment Facility (La RS 28:2) – A public/private hospital, retreat, institution, mental health center, or facility licensed by the state in which a person who is mentally ill or person who is suffering from substance abuse is received or detained as a patient.

VI. STATUTORY AND REGULATORY DEFINITIONS OF RESTRAINT AND SECLUSION AND REQUIREMENTS FOR USE OF RESTRAINT AND SECLUSION

Varying definitions of restraint and seclusion and requirements for their use are found in multiple state and federal laws, rules and regulations such as the CMS Conditions of Participation for ICF/DDs, as well as in the guidelines of regulatory and accrediting bodies such as the Joint Commission on Accreditation of Healthcare Organizations. These definitions and requirements apply to different client populations and/or in different settings and may include prohibitions of use of some procedures in some settings and not others. A list of laws and regulations is provided in Appendix A of this policy. **It is the responsibility of each program office, facility, program, and affiliate within LDH to ensure that its internal policies and procedures incorporate those specific definitions and requirements which apply to the clients they serve and the settings in which services are delivered.**

VII. DISSEMINATION

This policy shall be made available to:

- A. All affected LDH bureaus and program offices;
- B. All staff of LDH facilities and programs, including staff providing services operated by affiliates; and,
- C. Persons served by LDH 24-hour state facilities, subsidiaries, and affiliates or, where applicable, the legally responsible or designated representative(s) of the individuals.
 - 1. Clear written and verbal information outlining the requirements of this policy along with the facility/program's internal policy and procedures shall be provided:
 - a. to clients and/or their representatives upon admission to a program;
 - b. to clients and/or their representatives as needed or requested;

- and,
 - c. as mandated by licensing, certification and/or accreditation agencies.
- 2. Verification of receipt of the above-listed information by the client (or client representative) shall be maintained in the client's record.
- D. Any other person requesting a copy. (A fee may be assessed for the copy in accordance with LA R.S. 39:241 and LDH Policy #74 – Uniform Fee Schedule for Copies of Public Records)

VIII. LAWS AND REGULATIONS GOVERNING RESTRAINT AND SECLUSION

A. State Law

1. Louisiana Revised Statute 28:171. D-E. This statute applies to all treatment facilities.
2. Louisiana Children's Code Article 1409.D-E. This statute applies to all treatment facilities providing services to children.
3. Louisiana Revised Statute 40:2010.8 et seq. Nursing Facility Resident Rights.

B. State Regulation

Licensing and/or certification regulations for care providers generally contain sections dealing with client rights which mention the right to be free from use of restraints except as provided in the regulations. Some regulations provide additional guidance on restraint use. Licensed providers should consult their licensing regulations for specific guidelines. For providers who participate in the Medicare or Medicaid programs, these regulations generally track the federal regulations cited below.

C. Federal Regulations

1. 42 CFR 483.352-374. (Subpart G). Conditions of Participation for the Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under Age 21.
2. 42 CFR 482.13. Conditions of Participation for Hospitals. This regulation deals with restraint and seclusion in two sections. 42 CFR 482.13 (e) provides the standard for hospitals for restraint for acute medical and

surgical care. Section 42 CFR 482.13 (f) provides the standard for hospitals for seclusion and restraint for behavior management.

3. 42 CFR 483.400. Conditions of Participation for Intermediate Care Facilities for the Developmentally Disabled. See especially Sections 483.420 and 483.450.
4. 42 CFR 483.13. Requirements for Long Term-Care Facilities-Resident behavior and facility practices.

D. Accreditation Standards

Facilities accredited by The Joint Commission or other accreditation organizations should consult those standards which pertain to restraint and seclusion.

IX. DISCIPLINARY ACTIONS

Violations of this policy may result in disciplinary action up to and including dismissal.

X. REFERENCES

CMS Conditions of Participation for ICF/DD's

LDH Policy #76 – Abuse and Neglect

LDH Policy #74 – Uniform Fee Schedule for Copies of Public Records

Louisiana Revised Statute 39:241

Louisiana Revised Statute 28:171. D-E

Louisiana Children's Code Article 1409.D-E

Louisiana Revised Statute 40:2010.8 et seq

Federal Regulations:

- 42 CFR 483.352-374. (Subpart G)
- 42 CFR 482.13
- 42 CFR 483.400
- 42 CFR 483.13

XI. REVISION HISTORY

Date	Revision
January 26, 2004	Policy created
July 15, 2014	Policy revised
June 23, 2020	Policy reviewed